

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance
(916) 322-5662

Administration
322-5660

Executive/Legal
322-5901

Enforcement
322-6441

Statements of Economic Interest
322-6444

January 31, 1985

Michael R. Nave
1220 Howard Avenue, Suite 250
P.O. Box 208
Burlingame, CA 94011

Re: Your Request for Advice
Our File No. A-85-009

Dear Mr. Nave:

Thank you for your letter requesting advice on behalf of a member of the City Council for the City of Dublin regarding her duties under the conflict of interest provisions of the Political Reform Act.^{1/}

QUESTION

Must a member of the City Council disqualify herself from participating in decisions concerning the dissolution of the Community Services District for the City because her spouse is a director of the Community Services District and receives a salary for his services as director?

CONCLUSION

The member of the City Council is not required to disqualify herself from participating in decisions concerning the dissolution of the Community Services District because her spouse is a director of the Community Services District and receives a salary for his services as a director.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Michael R. Nave
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DISCUSSION

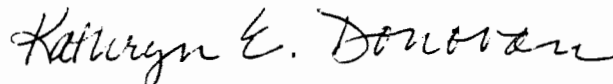
The Political Reform Act prohibits a public official from making, participating in, or using his official position to influence a governmental decision in which the official has a financial interest. Section 87100. Pursuant to Section 87103, a public official has a financial interest in a governmental decision when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on, among other interests, any source of income aggregating \$250 or more received by or promised to the public official within 12 months prior to the time when the decision is made.

Income includes any community property interest in the income of a spouse. Section 82030(a). However, income does not include any salary and reimbursement for expenses or per diem received from a state, local, or federal government agency. Section 82030(b)(2). Therefore, the income to the Councilmember's spouse from the Community Services District is not considered income for purposes of the Political Reform Act, and the Community Services District is not a source of income to the Councilmember.

Accordingly, the member of the City Council is not required to disqualify herself from decisions concerning the dissolution of the Community Services District because of the income her spouse receives as a director of the Community Services District.

If you have any further questions regarding this matter, please contact me at (916) 322-5901.

Very truly yours,



Kathryn E. Donovan
Counsel
Legal Division

KED:plh

MICHAEL R. NAVE

ATTORNEY AT LAW

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January 14, 1985

Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Re: Request for Advice Letter

Gentlemen:

The City of Dublin respectfully requests a conflict of interest advise letter. The pertinent facts are as follows:

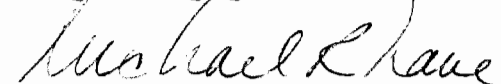
The City of Dublin incorporated in 1982. Since a date long prior to incorporation, the sewer, fire prevention and recreation services for the area now within the City have been provided by a Community Services District. The City may be considering the initiation of proceedings to dissolve the Community Services District. A council member's spouse is an elected Director of the Community Services District. The spouse receives a monthly compensation for serving as a Director but the compensation is not the spouse's major source of income.

Does the Dublin council member have a conflict of interest that disqualifies her from participating in council discussions and voting on the dissolution of the Community Services District?

Please send the Advice Letter to the undersigned City Attorney.

Thank you.

Very truly yours,



MICHAEL R. NAVE
City Attorney
City of Dublin

MRN/lm

cc: Richard Ambrose